

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

GRAYLIN GRAY,

Petitioner,

vs.

SCOTT R. FRAKES, and TODD
WASMER,

Respondents.

8:19CV490

**MEMORANDUM
AND ORDER**

This matter is before the court on Petitioner's Motion for Leave to Appeal in Forma Pauperis. ([Filing No. 10.](#)) Petitioner filed a Notice of Appeal ([filing no. 9](#)) on January 2, 2020. Petitioner appeals from the court's Memorandum and Order and Judgment dated December 17, 2019 (filing nos. [7](#) & [8](#)), in which the court dismissed his § 2241 habeas petition without prejudice to reassertion in a petition for writ of habeas corpus pursuant to [28 U.S.C. § 2254](#) properly authorized by the Eighth Circuit Court of Appeals.

As set forth in [Federal Rule of Appellate Procedure 24\(a\)\(3\)](#):

(a) Leave to Proceed in Forma Pauperis . . .

(3) Prior Approval. A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless:

(A) the district court—before or after the notice of appeal is filed—certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to

proceed in forma pauperis and states in writing its reasons for the certification or finding

The court finds that because Petitioner proceeded IFP in the district court, he may now proceed on appeal in forma pauperis without further authorization.

IT IS THEREFORE ORDERED that Petitioner's Motion for Leave to Appeal in Forma Pauperis ([filing no. 10](#)) is granted.

Dated this 8th day of January, 2020.

BY THE COURT:

Richard G. Kopf
Senior United States District Judge